IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9093 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JILLUBHAI A KHACHAR

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 9093 of 1993

MR BA SURTI for Petitioner No. 1

MR HS MUNSHAW for Respondent No. 1

MR KT DAVE ASST GOVERNMENT PLEADER for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 24/10/2002

ORAL JUDGEMENT

#. By filing this petition under Article 227 of the Constitution of India, the petitioner has challenged

legality of the order dated March 29, 1993 passed by the District Development Officer, Ahmedabad under Section 51 [1] of the Gujarat Panchayats Act, 1961, by which, he was suspended from the office of the Sarpanch because of institution of criminal proceedings in respect of the offences involving moral turpitude. The petitioner has also challenged the order dated July 22, 1993 passed by the State Government under Section 51 [3] of the said Act, by which, Appeal filed by him against the order suspending him from the office of the Sarpanch is rejected.

#. The petition was placed for admission hearing before the Court on September 6, 1993 and the Court after hearing the learned counsel for the petitioner had passed the following order.

"Notice returnable on 16-9-1993. Ad-interim relief in terms of Para-17[b] in view of the statement made by learned counsel Mr.B.A.Surti at the Bar that the impugned orders have not been implemented till today. Direct Service is permitted."

#. The ordersheet further indicates that by order dated March 22, 1994, Rule nisi was issued in the petition and ad-interim relief granted on September 6, 1993 was confirmed.

#. It may be stated that as per Section 17 of the Gujarat Panchayats Act, 1961, the term of a Panchayat as constituted at its first meeting was for five years from the date of such meeting, whereas as per Section 45 of the Gujarat Panchayats Act, 1961, the term of office of Sarpanch was coextensive with the term of the Panchayat. The Gujarat Panchayats Act, 1961 has been repealed by the Gujarat Panchayats Act, 1993 which has come into force since August 26, 1993. Under the new Act also, the duration of a Panchayat is for five years which is quite evident from the provisions of Section 13 of the new Act and the term of the office of the Sarpanch is coextensive with the duration of the Panchayat which is evident from the provisions of Section 56 of the new Act of 1993. Mr.J.M.Barot, learned counsel for the respondent No.1 states at the Bar that on expiry of duration of the term of Panchayat, fresh elections have been held from time to time and as the term of office of the petitioner as Sarpanch has already expired, the petition has become infructuous and be disposed of accordingly. The statement made by the learned counsel for the respondent No.1 is not controverted by learned counsel for the

petitioner. Having regard to the facts of the case, I am of the opinion that the petition has become infructuous and deserves to be disposed of accordingly.

#. Hence, the petition fails and is dismissed. Rule discharged. No order as to costs. Interim relief granted earlier is hereby vacated. The petition stands disposed of as having become infructuous.

Date : 24-10-2002 [J.M.Panchal, J.]

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